

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

-----x
United States of America : Indictment #04-CR-
10066 (MEL)
:
-against- : Petition of Fairmont
Funding Ltd -
Jamie Edelkind, : 21 USC 853(n)
Defendant.
-----X

Fairmont Funding Ltd., a New York City based licensed private mortgage lender, under penalty of perjury, petitions the Court and asserts a legal interest in the forfeited property, namely, the Hull, Massachusetts residential property of Linda Edelkind and Jamie Edelkind on which Fairmont Funding has a first mortgage (together with Lehman Brothers, as explained).

1. Steven Rimmer is executive vice-president of Fairmont Funding, Ltd, with offices at 39 West 37th Street, New York, New York 10018 and 5804 - 16th Avenue, Brooklyn, New York 11204.

2. Fairmont is represented in these proceedings by its attorney, Elliot Wales, of New York City, a member of the New York bar, who has filed a notice of appearance in these proceedings.
3. In August or September 2004 Fairmont funded a \$3,300,000 refinanced first mortgage upon the home of Jamie and Linda Edelkind in Hull, Massachusetts. At the closing Fairmont received a bond and mortgage on the property from Linda Edelkind in the sum of \$3,300,000, which mortgage was promptly and duly recorded. At the closing Fairmont disbursed the sum of \$3,300,000 less agreed upon fees, commissions, discounts, expenses. At the closing Fairmont received a title insurance policy insuring Fairmont received a valid first mortgage.
4. Subsequently, pursuant to a master agreement, Fairmont sold the mortgage in the secondary market to Aurora, a division of Lehman Brothers, a giant financial institution.

5. Because the borrowers defaulted immediately on the mortgage payment, Lehman has demanded Fairmont repurchase the mortgage. Fairmont and Lehman have commenced negotiations to resolve the issue.
6. The ultimate title holder to the mortgage has standing to assert a "legal interest" in the forfeited property for the full amount of the mortgage, namely, \$3,300,000. As Fairmont has proposed an escrow arrangement, both Fairmont and Lehman have standing to assert a legal interest in the property.
7. The trial testimony of Fairmont witnesses and Lehman witnesses evidenced that Fairmont Funding and Lehman acted in good faith and exercised well recognized business practices in processing the Edelkind mortgage application and in closing the mortgage transaction.
8. In summation to the jury the United States Attorney argued that the trial testimony of


Fairmont and Lehman witnesses was credible, the Fairmont and Lehman documents genuine, the transaction conducted in accordance with well established real estate practices.

9. We ask the court to take judicial notice of the trial testimony, the jury verdict, and the summation of the United States Attorney, which together establishes the priority of the first mortgage to the forfeited property over the interests of the United States and the right of the ultimate holder of the first mortgage to \$3,300,000 of forfeited property.
10. No government funds or programs were involved or lost. Nor does this transaction involve narcotics or other contraband.
11. Fairmont seeks an ancillary hearing and ultimately forfeiture of the property to Fairmont subject to an escrow arrangement while Fairmont and Lehman negotiate or litigate their dispute.

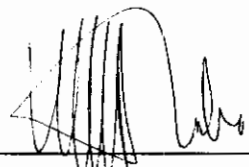
Verification

Steven Rimmer, under penalty of perjury, affirms, I am executive vice- president of Fairmont Funding Ltd in charge of its Brooklyn office mortgage lending operations. I have read the petition and affirm its truthfulness.

May 12, 2005


Steven Rimmer
Executive Vice-President
Fairmont Funding Ltd.

Affirmed before me


Elliot Wales
Member of the New York bar
Notary Public, State of New York